**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR**

**FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929**

**WP(C).No. 22207 of 2005(R)**
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**PETITIONER:**
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**M.K. THANKAPPAN, S/O. M.K. KUMARAN,**
**KOUSTHUBHAM, 13/220, CHITTOOR P.O., PALAKKAD.**

**BY ADV. SRI.K.A.SHAMSUDEEN**

**RESPONDENTS:**
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1. **STATE OF KERALA,**
   **REPRESENTED BY ITS SECRETARY,**
   **DEPARTMENT OF HOME AFFAIRS, GOVT.SECRETARIAT,**
   **THIRUVANANTHAPURAM.**

2. **THE DIRECTOR GENERAL OF POLICE,**
   **POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.**

3. **THE ADDITIONAL DIRECTOR GENERAL OF**
   **POLICE (CRIMES), CRIME BRANCH CID HEAD QUARTERS,**
   **THIRUVANANTHAPURAM.**

4. **THE ACCOUNTANT GENERAL (A & E) KERALA,**
   **THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER SMT.M.R.SREELATHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C) NO.22207/2005**

**APPENDIX**

**PETITIONER'S EXHIBITS**

**EXT.P1:- COPY OF THE GRATUITY PAYMENT ORDER DT.24.1.02.**

**EXT.P1(a):- COPY OF THE FINAL ORDER ADMITTING GRATUITY OF THE PETITIONER DT.7.10.02.**

**EXT.P2:- COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT.20.10.02.**

**EXT.P3:- COPY OF THE OFFICE COMMUNICATION IS ISSUED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT DT.21.5.02.**

**EXT.P4:- COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DT.14.2.03.**

**EXT.P5:- COPY OF THE ENQUIRY REPORT IN THE DEPARTMENTAL PROCEEDINGS.**

**/TRUE COPY/**

**tss**

K.BALAKRISHNAN NAIR, J.

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W.P.(C) No.22207 of 2005-R

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Dated this the 25th day of May, 2007

J U D G M E N T

The petitioner retired from service on 30-9-2001. So far the Death-cum-Retirement Gratuity due to him has not been released for the reason of pendency of a criminal case against him. Ext.P4 is the communication issued by the second respondent stating the reason for not releasing the DCRG.

> " Please refer to the reference cited. Addl. Director General of Police, Crimes has reported that, you are included as accused in Crime No.286/CR/94 and the case was charged on 29-2-2001 before the Judicial First Class Magistrate Court, Irinjalakkuda and pending trial as CC 117/2000. The case comes within the provisions contained in Rule 3 of Part III KSRs. In this circumstances the NLC cannot be issued at present."

2. The petitioner points out that the only reason for denial of DCRG was the pendency of CC.No.117 of 2000 before the Judicial First Class Magistrate Court, Irinjalakkuda. Now, he submits, the said case has been compounded and he has been acquitted by the said Court by judgment dated 30-11-2006, the photocopy of the same was

handed over to me for my perusal. Therefore, the petitioner prays the respondents may be directed to release the DCRG due to him.

2. I heard the learned Government Pleader for the respondents also.

3. In view of the developments, the second respondent is directed to re-consider the claim of the petitioner for DCRG, in accordance with law, and release the amount due to him, within two months from the date of production of a copy of this judgment. The petitioner shall also produce the certified copy of the judgment of the Criminal Court along with the copy of this judgment, before the second respondent.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS